

Federal Deposit Insurance Corporation

§ 329.1

include the official advertising statement, or any other statement or symbol which implies or suggests the existence of Federal deposit insurance, in any advertisement relating solely to non-deposit products.

(3) *Hybrid product advertisements.* Except as provided in §328.3(e)(4), an insured depository institution shall not include the official advertising statement, or any other statement or symbol which implies or suggests the existence of federal deposit insurance, in any advertisement relating solely to hybrid products.

(4) *Mixed advertisements.* In advertisements containing information about both insured deposit products and non-deposit products or hybrid products, an insured depository institution shall clearly segregate the official advertising statement or any similar statement from that portion of the advertisement that relates to the non-deposit products.

(f) *Official advertising statement in non-English language.* The non-English equivalent of the official advertising statement may be used in any advertisement, provided that the translation has had the prior written approval of the Corporation.

§328.4 Prohibition against receiving deposits at same teller station or window as noninsured institution.

(a) *Prohibition.* An insured depository institution may not receive deposits at any teller station or window where any noninsured institution receives deposits or similar liabilities.

(b) *Exception.* This §328.4 does not apply to deposits received at a Remote Service Facility.

PART 329—LIQUIDITY RISK MEASUREMENT STANDARDS

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AUTHORITY: 12 U.S.C. 1815, 1816, 1818, 1819, 1828, 1831p-1, 5412.

SOURCE: 79 FR 61523, Oct. 10, 2014, unless otherwise noted.

Subpart A—General Provisions

§ 329.1 Purpose and applicability.

(a) *Purpose.* This part establishes a minimum liquidity standard for certain FDIC-supervised institutions on a consolidated basis, as set forth herein.

(b) *Applicability.* (1) An FDIC-supervised institution is subject to the minimum liquidity standard and other requirements of this part if:

(i) It has total consolidated assets equal to \$250 billion or more, as reported on the most recent year-end Consolidated Report of Condition and Income;

(ii) It has total consolidated on-balance sheet foreign exposure at the most recent year-end equal to \$10 billion or more (where total on-balance sheet foreign exposure equals total cross-border claims less claims with a head office or guarantor located in another country plus redistributed guaranteed amounts to the country of the head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative transaction products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report);

(iii) It is a depository institution that has total consolidated assets

equal to \$10 billion or more, as reported on the most recent year-end Consolidated Report of Condition and Income and is a consolidated subsidiary of one of the following:

(A) A covered depository institution holding company that has total assets equal to \$250 billion or more, as reported on the most recent year-end Consolidated Financial Statements for Holding Companies reporting form (FR Y-9C), or, if the covered depository institution holding company is not required to report on the FR Y-9C, its estimated total consolidated assets as of the most recent year-end, calculated in accordance with the instructions to the FR Y-9C;

(B) A depository institution that has total consolidated assets equal to \$250 billion or more, as reported on the most recent year-end Consolidated Report of Condition and Income;

(C) A covered depository institution holding company or depository institution that has total consolidated on-balance sheet foreign exposure at the most recent year-end equal to \$10 billion or more (where total on-balance sheet foreign exposure equals total cross-border claims less claims with a head office or guarantor located in another country plus redistributed guaranteed amounts to the country of the head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative transaction products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report); or

(D) A covered nonbank company.

(iv) The FDIC has determined that application of this part is appropriate in light of the FDIC-supervised institution's asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(2) Subject to the transition periods set forth in subpart F of this part:

(i) An FDIC-supervised institution that is subject to the minimum liquidity standard and other requirements of this part under paragraph (b)(1) of this section on September 30, 2014, must

comply with the requirements of this part beginning on January 1, 2015;

(ii) An FDIC-supervised institution that becomes subject to the minimum liquidity standard and other requirements of this part under paragraphs (b)(1)(i) through (iii) of this section after September 30, 2014, must comply with the requirements of this part beginning on April 1 of the year in which the An FDIC-supervised institution becomes subject to the minimum liquidity standard and other requirements of this part, except:

(A) From April 1 to December 31 of the year in which the FDIC-supervised institution becomes subject to the minimum liquidity standard and other requirements of this part, the FDIC-supervised institution must calculate and maintain a liquidity coverage ratio monthly, on each calculation date that is the last business day of the applicable calendar month; and

(B) Beginning January 1 of the year after the first year in which the [BANK] becomes subject to the minimum liquidity standard and other requirements of this part under paragraph (b)(1) of this section, and thereafter, the FDIC-supervised institution must calculate and maintain a liquidity coverage ratio on each calculation date; and

(iii) An FDIC-supervised institution that becomes subject to the minimum liquidity standard and other requirements of this part under paragraph (b)(1)(iv) of this section after September 30, 2014, must comply with the requirements of this part subject to a transition period specified by the FDIC.

(3) This part does not apply to:

(i) A bridge financial company as defined in 12 U.S.C. 5381(a)(3), or a subsidiary of a bridge financial company; or

(ii) A new depository institution or a bridge depository institution, as defined in 12 U.S.C. 1813(i).

(4) An FDIC-supervised institution subject to a minimum liquidity standard under this part shall remain subject until the FDIC determines in writing that application of this part to the FDIC-supervised institution is not appropriate in light of the FDIC-supervised institution's asset size, level of

complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(5) In making a determination under paragraphs (b)(1)(iv) or (4) of this section, the FDIC will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 324.5.

[79 FR 61540, Oct. 10, 2014, as amended at 79 FR 61541, Oct. 10, 2014]

§ 329.2 Reservation of authority.

(a) The FDIC may require an FDIC-supervised institution to hold an amount of high-quality liquid assets (HQLA) greater than otherwise required under this part, or to take any other measure to improve the FDIC-supervised institution's liquidity risk profile, if the FDIC determines that the FDIC-supervised institution's liquidity requirements as calculated under this part are not commensurate with the FDIC-supervised institution's liquidity risks. In making determinations under this section, the FDIC will apply notice and response procedures as set forth in 12 CFR 324.5.

(b) Nothing in this part limits the authority of the FDIC under any other provision of law or regulation to take supervisory or enforcement action, including action to address unsafe or unsound practices or conditions, deficient liquidity levels, or violations of law.

§ 329.3 Definitions.

For the purposes of this part:

Affiliated depository institution means with respect to an FDIC-supervised institution that is a depository institution, another depository institution that is a consolidated subsidiary of a bank holding company or savings and loan holding company of which the FDIC-supervised institution is also a consolidated subsidiary.

Asset exchange means a transaction in which, as of the calculation date, the counterparties have previously exchanged non-cash assets, and have each agreed to return such assets to each other at a future date. Asset exchanges do not include secured funding and secured lending transactions.

Bank holding company is defined in section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*).

Brokered deposit means any deposit held at the FDIC-supervised institution that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker as that term is defined in section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)), and includes a reciprocal brokered deposit and a brokered sweep deposit.

Brokered sweep deposit means a deposit held at the FDIC-supervised institution by a customer or counterparty through a contractual feature that automatically transfers to the FDIC-supervised institution from another regulated financial company at the close of each business day amounts identified under the agreement governing the account from which the amount is being transferred.

Calculation date means any date on which an FDIC-supervised institution calculates its liquidity coverage ratio under § 329.10.

Client pool security means a security that is owned by a customer of the FDIC-supervised institution that is not an asset of the FDIC-supervised institution, regardless of a FDIC-supervised institution's hypothecation rights with respect to the security.

Collateralized deposit means:

(1) A deposit of a public sector entity held at the FDIC-supervised institution that is secured under applicable law by a lien on assets owned by the FDIC-supervised institution and that gives the depositor, as holder of the lien, priority over the assets in the event the FDIC-supervised institution enters into receivership, bankruptcy, insolvency, liquidation, resolution, or similar proceeding; or

(2) A deposit of a fiduciary account held at the FDIC-supervised institution for which the FDIC-supervised institution is a fiduciary and sets aside assets owned by the FDIC-supervised institution as security under 12 CFR 9.10 (national bank) or 12 CFR 150.300 through 150.320 (Federal savings associations) and that gives the depositor priority over the assets in the event the FDIC-